

## LYNCHBURG CITY COUNCIL REPORT

Meeting Date: January 15, 2002 Council Report #: 8

Contact: Rachel Flynn – 847-1508 x 253 Report Writer: Bill McDonald 847-1508 x 257

Subject: Rezoning: I-2 to B-3(C) at 310-312 Border Street  
Petitioners: Carl and Ellen Sanders

Purpose of Action:  
To allow the operation of an ice cream parlor/restaurant.

Requested Action:  
Adoption of an ordinance to approve the rezoning.

Prior Action:  
December 12: Planning Commission recommended approval of the rezoning  
December 12: Planning Division recommended approval of rezoning

Attachments: Planning Commission report, Planning Commission minutes from December 12, 2001 meeting, Vicinity/Zoning Map, Vicinity Land Use Map, Site Plan

Resolution/Ordinance:  
Attached

008L

Other Information: None

AN ORDINANCE CHANGING A CERTAIN AREA FROM I-2, LIGHT INDUSTRIAL DISTRICT TO B-3 (CONDITIONAL), COMMUNITY BUSINESS DISTRICT.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG, that in order to promote the public necessity, convenience, general welfare, and good zoning practice that Chapter 35.1 of the Code of the City of Lynchburg, 1981, as amended, be and the same is hereby further amended by adding thereto Section 35.1-76.\_\_\_\_, which section shall read as follows:

Section 35.1-76.\_\_\_\_. Change of a certain area from I-2, Light Industrial District to B-3 (Conditional), Community Business District.

The area embraced within the following boundaries . . .

Beginning at a point in said northerly line of Border Street, corner to the property that was formerly the site of the "Hilton Hotel" (currently the "Radisson Hotel") on said plat and running thence N 28° 58' 00" E 96.41 feet to point; thence N 37° 11' 50" W 108.23 feet to a point; thence N 36° 06' 50" W 238.66 feet to a point; thence N 60° 56' 20" E 209 feet to a point adjoining the property designed "Outlet" on said plat; thence along the boundary line between said property and said "Outlet", S 36° 28' 30" E 371.00 feet to a point; thence S 37° 31' 30" W 14.2 feet to a point; thence along said northwesterly line of Border Street as shown on said plat, S 38° 34' 30" W 94.83 feet to a point; thence on a curve to the right, the radius of which is 246.996 feet a distance of 191.98 feet to the point of beginning.

. . . is hereby changed from I-2, Light Industrial District to B-3 (Conditional), Community Business District, subject to the conditions setout herein below which were voluntarily proffered in writing by the owner, namely: Wayne B. Booth, to wit:

1. The property will be used as a site for a restaurant completely enclosed within a building.
2. The building will not have drive-in window facilities.

And the Director of Community Planning and Development shall forthwith cause the "Official Zoning Map of Lynchburg, Virginia, referred to in Section 35.1-4 of this Chapter to be amended in accordance therewith.

Adopted:

Certified: \_\_\_\_\_  
Clerk of Council

008L

**The Department of Community Planning & Development**  
**City Hall, Lynchburg, VA 24504** **434-847-1508**

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**To:** Planning Commission  
**From:** Planning Division  
**Date:** December 12, 2001  
**Re:** **REZONING: I-2 to B-3(C) at 310-312 BORDER STREET**

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**I. PETITIONERS**

Carl and Ellen Sanders, 2004 Wards Road, Lynchburg, VA 24502.

**Representative:** Petitioners

**II. LOCATION**

The subject property is a tract of about 1.9 acres located at 310-312 Border Street.

**Property Owner:** Wayne B. Booth, 9621 Timberlake Road, Lynchburg, Virginia 24502.

**III. PURPOSE**

The purpose of this petition is to rezone the subject property from I-2, Light Industrial District, to B-3 (Conditional), Community Business District, in order to allow the operation of a restaurant/ice cream parlor in an existing building.

**IV. SUMMARY**

- Petition does not agree with the *General Plan*, which recommends a General Industrial use.
  - Petition will reduce the intensity of industrial zoning of an existing commercially used parcel.
  - Petition is considered to be more compatible with the surrounding area than the existing zoning.
  - **The Planning Division recommends approval of the rezoning petition.**
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**V. FINDINGS OF FACT**

1. **General Plan.** The Lynchburg *General Plan* recommends a General Industrial use for the subject property. The *General Plan* discourages scattering commercial activities throughout the City. Scattering often results in increased inconvenience for customers and increases the dangers of blighting effects on residential areas. Objective 4 recommends “[a] pattern of commercial uses and design of commercial areas which cause a minimum of nuisance to living areas and of interference with traffic on major thoroughfares.” The subject petition proposes to rezone the property to a more restrictive zoning classification to use an existing commercial structure for a commercial land use. The proposal will maintain the current practice of preserving existing residential areas as established by the *General Plan* and place the commercial use into a commercial zoning.

**Zoning.** The site proposed for the ice cream parlor and restaurant in an existing building is presently zoned I-2, Light Industrial District, but requires a B-3, Community Business District. The existing commercial building was constructed in the industrial district under the then prevailing provisions of the Zoning Ordinance. The petitioner is requesting a rezoning to a less intensive zoning classification than currently exists.

Ed Miller, Director of Economic Development, has stated that he does not object to the proposed rezoning because of the relatively small size of the subject property and its proximity to other industrially zoned property.

2. **Proffers.** The petitioner voluntarily submitted the following proffers with the rezoning application:
  - “The property will be used as a site for a restaurant completely enclosed within a building.”
  - “The building will not have drive-in window facilities.”
3. **Board of Zoning Appeals (BZA).** No action by the BZA is necessary.
4. **Surrounding Area.** There have been no recent rezoning petitions or CUP petitions in the vicinity of the subject property.
5. **Site Description.** The site is approximately 1.9 acres on which a commercial structure (formerly Show-Biz Pizza) and parking lot are located. The site is abutted by undeveloped land to the northwest and northeast (with the industrial use of Limitorque beyond); the off ramp from the Expressway to the south (with the commercial use of Days Inn beyond); and the commercial use of the Radisson Hotel to west.
6. **Proposed Use of Property.** The purpose of the rezoning is to allow the operation of an ice cream parlor/restaurant in the existing commercial building, which has an area of approximately 9,520 square feet.
7. **Traffic & Parking.** The City Traffic Engineer had no comments of concern regarding the subject petition. The proposed use is not expected to generate a significant amount of traffic.

The proposed use of the existing structure is expected to have less of a parking need than the previous use as Show-Biz Pizza. The parking requirements for a restaurant are one space for each three seats and one for every three employees on duty at any one time. The petitioner has proposed about 381 seats and 15 employees. This would require 132 parking spaces, while there are 133 existing paved spaces. This amount is one space more than the requirements of the Zoning Ordinance.
8. **Storm Water Management.** The Environmental Specialist of the Robert E. Lee Soil & Water Conservation District notes that a storm water management plan will be required only if the disturbed area exceeds 1,000 square feet. The petition does propose any new disturbed areas.
9. **Visual Impact.** The current submittal proposes the use of an existing commercial structure. There is no proposed exterior modification of the structure and no concern about the visual impact the proposed use will have on adjacent commercial/industrial areas. The proposed commercial use is less intensive than the previously approved use that was allowed in the industrial zone and will not have an adverse impact on the future continued stability of the surrounding area. The amount of landscaping is adequate for the property and proposed use. The proposed rezoning is compatible with the surrounding land uses and zoning.
10. **Technical Review Committee.** The Technical Review Committee (TRC) reviewed the preliminary site plan on November 20 and noted the need for a few revisions, all of which were minor in nature and will need to be addressed by the petitioner.

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## V. PLANNING DIVISION RECOMMENDATION

Based on the preceding Findings of Fact, the Planning Division recommends to the City Council approval of the petition of Carl and Ellen Sanders to rezone about 1.9 acres at 310-312 Border Street from a, n I-2, Light Industrial District, to a B-3 (Conditional), Community Business District, to allow the operation of an ice Cream parlor/restaurant in an existing building.

This matter is respectfully offered for your consideration.

William K. McDonald, AICP  
Acting City Planner

pc: Mr. L. Kimball Payne, III, City Manager  
Mr. Walter C. Erwin, City Attorney  
Ms. Rachel O. Flynn, Director of Community Planning & Development  
Mr. Bruce A. McNabb, Director of Public Works  
Mr. John W. Jennings, Fire Marshal  
Ms. Judith C. Wiegand, Strategic Planner  
Mr. J. Lee Newland, Director of Engineering  
Mr. Gerry L. Harter, Traffic Engineer  
Mr. Robert Drane, Acting Building Commissioner  
Mr. Arthur L. Tolley, Zoning Official  
Mr. Robert S. Fowler, Zoning Official  
Mr. and Mrs. Carl Sanders, Petitioners/Representatives

## VI. ATTACHMENTS

1. Vicinity Zoning Pattern  
(see attached map)

2. Vicinity Proposed Land Use  
(see attached map)

3. Site Plan  
(see attached site plan)

Petition of Carl and Ellen Sanders to rezone approximately 1.9 acres at 310-312 Border Street from I-2, Light Industrial District, to B-3 (Conditional), Community Business District, to allow a restaurant/ice cream parlor in an existing building.

Mr. Carl Sanders, 2004 Wards Road, owner of Billy Joe's Restaurant and Ice Cream Parlor, explained to the Commission that they wanted to move their restaurant to a larger location at 310-312 Border Street and have the same operation as they currently have.

Commissioner Flint said this building had been vacant for a number of years and was happy to see it being utilized.

After further discussion, Commissioner Wilkins made the following motion, which was seconded by Commissioner Flint and passed by the following vote:

"That the Planning Commission recommends to the City Council approval of the petition of Carl and Ellen Sanders to rezone about 1.9 acres at 310-312 Border Street from an I-2, Light Industrial District, to a B-3 (Conditional), Community Business District, to allow the operation of an Ice Cream Parlor/Restaurant in an existing building."

AYES: Dahlgren, Echols, Flint, Moore, Wilkins, Worthin	6
NOES:	0
ABSTENTIONS:	0

CARL & ELLEN SANDERS  
310-312 BORDER STREET  
REZONING REQUEST I-2 to B-3C  
TAX MAP #'S 116-04-001, 016/17  
MAP PREPARED BY  
THE DEPARTMENT OF COMMUNITY PLANNING & DEVELOPMENT



Subject Property  
200 ft. Radius

